IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.442 OF 2005
IN
ARBITRATION PETITION NO.131 OF 2005

Mrs.Sita Bhaskar — Appellant
vs.
Harish Chandra Gutt & Co. Pvt. Ltd. — Respondent

Mr.Sanjay Jain i/b. M. Dhruva & Co. for the appellant.

Arvind Balkrishna Bhiday, Director on behalf of
respondent Harish Chandra Gutt & Co. Pvt. Ltd.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 13th June 2005

P.C.

Heard Mr.Sanjay Jain, the learned counsel for the appellant.

2. It is the present respondent's case that in the light of the transactions reflected by the present respondent for and on behalf of the present appellant, the amount of Rs.4,99,541.26 remained due and payable by the appellant as on 31st March 2002.

3. The arbitrator, after giving due opportunity to the parties, vide his award dated July 5, 2004 directed the present appellant to pay the sum of Rs.4,99,541.26 to the present respondent together with interest at the rate of 9% per annum on the principal amount from the

date of filing the reference to the date of the actual payment.

4. Aggrieved by the said award, the present appellant filed the Arbitration Petition for setting aside the award. The said arbitration petition came to be rejected by the learned Single Judge by the order dated April 4, 2005. Aggrieved thereby, the present appeal has been filed.

5. The contention of the learned counsel for the appellant is that as per the Regulations framed by the Bombay Stock Exchange, the arbitration application was required to be accompanied by the audited balance-sheet. In absence thereof, the claim of the present respondent could not have been accepted.

6. We are unable to accept the submission of the learned counsel for the appellant. The arbitrator has considered the matter at quite some length and found as a matter of fact that the present appellant has been regularly dealing with the present respondent directly and/or through her husband considering the delivery of the shares and the bank transactions. The claim of the present respondent to the tune of Rs.4,99,541.26 was found to be established. Merely because the claim was not accompanied by the audited balance-sheet, it cannot be said that the award passed by the Arbitrator was liable to be set aside. Besides that Mr.Arvind

Balkrishna Bhiday, Director of the respondent-company who appeared before us showed the balance-sheet of the year 2001-02 duly certified by the chartered Accountant evidencing that the present appellant is one of the sundry debtors owing an amount of Rs.4,99,541.26 to the present respondent.

7. The award is, thus, based on appreciation of evidence and material on record and the learned Single Judge cannot be said to have erred in dismissing the petition under Section 34 of the Arbitration and Conciliation Act, 1996.

8. Before we close, we may record that the learned counsel for the appellant though sought to raise the plea that the claim of the respondent was barred by time but faced with the difficulty that it was not raised before the Arbitrator as well as the learned Single Judge, he did not carry the said contention further.

9. Appeal does not deserve to be admitted.

10. Dismissed in limine.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)